

RETURN DATE: OCTOBER 22, 2019 : SUPERIOR COURT
POWERS, MICHAEL RICHARD : J.D. OF STAMFORD/NORWALK
VS. : AT STAMFORD
THE TOWN OF WILTON, ET AL. : SEPTEMBER 29, 2019

APPLICATION FOR TEMPORARY AND PERMANENT INJUNCTION

Pursuant to Chapter 916 of the Connecticut General Statutes, § 52-473 et seq., the Plaintiff in the above-entitled action hereby makes an application for a temporary and permanent injunction. In support of this application, the Plaintiff respectfully represents:

I. PARTIES:

1. The Plaintiff, Michael Richard Powers, was, and is, at all times herein mentioned, a resident of the Town of Wilton, State of Connecticut.

2. The Defendant, Town of Wilton (hereinafter referred to as the 'Town'), is a municipal corporation, and existing under the laws of the State of Connecticut and having its territorial limits in the County of Fairfield and the State of Connecticut.

3. The Defendant, Wilton Board of Selectman (hereinafter referred to as the 'WBoS'), has "...the powers, duties and responsibilities conferred upon it by..." Town Charter. These powers, duties and responsibilities, include, but are not limited, the administrative, appointive and legislative powers of the Town.

4. The Defendant, Lynne Vanderslice, was, and is, at all times herein mentioned, the First Selectwoman for the WBOS.

5. The Defendant, David K. Clune, was, and is, at all times herein mentioned, the Second Selectman for the WBOS. Mr. Clune is also an attorney licensed to practice law in the State of Connecticut and in the State of New York.

6. The Defendant, Lori Bufano, was, and is, at all times herein mentioned, a Selectwoman for the WBOS.

7. The Defendant, Joshua Cole, was, and is, at all times herein mentioned, a Selectman for the WBOS. Mr. Cole is also an attorney licensed to practice law in the State of Connecticut and in the State of New York.

8. The Defendant, Deborah McFadden, was, and is, at all times herein mentioned, a Selectwoman for the WBOS.

II. ISSUES:

A. Wilton Board of Selectmen Main Motions;

9. Thirty-Seven (37) of the 'Motions' put forth by the WBoS in the 2019 calendar year did not meet standard for a 'Motion' pursuant to Robert's Rule of Order, are therefore 'Out of Order,' and consequently 'Null and Void.' All 'Out of Order' motions of the WBoS must be vacated and all motions put forth, going forward, must be in compliance with all motion requirements set forth in the Town's policies and procedures, to include, but not limited to, Robert's Rules of Order.

III. ARGUMENTS:

10. The Town's policies and procedures for the WBoS are set out in the Town's 'Guide to Serving on a Town Board/Commission.' (October, 2018) (Hereinafter referred to as the 'Guide')

11. Pursuant to the Guide, Section III, Meetings, "Robert's Rules of Order will provide the rules to assist Board/Commissions in complying with parliamentary procedure in the conduct of meetings."

12. Pursuant to Robert's Rules of Order, Newly Revised (11th edition), "The handling of a motion varies in certain details according to conditions. In the ordinary case, especially under new business, there are six essential steps-three by which the motion is *brought before the assembly*, and three in the *consideration* of the motion." RONR (11th ed.), p. 32, ll. 3-7

13. "The three steps by which a motion is normally brought before the assembly are as follows:

1) A member makes the motion. (The words move and offer also refer to this step. A person is said to "make a motion", but he uses the word "move" when he does so. He is also said "to move" a particular proposal, as in "to move a postponement.")

2) Another member *seconds* the motion.¹

¹ Motions need not be seconded in a small board or a committee. RONR (11th ed.), p. 35, l. 35

- 3) The chair *states the question on the motion*. (The step of stating the question on the motion should not be confused with *putting the question*, which takes place later and means putting the motion to a vote.)”

RONR (11th ed.), p. 32, ll. 11-23

- a. “THE STATING OF THE QUESTION BY THE CHAIR. When a motion that is in order has been made and seconded, the chair formally places it before the assembly by *stating the question*; that is, he states the exact motion and indicates that it is open to debate...” (**emphasis added**) RONR (11th ed.), p. 37, ll. 20-24

14. “Once a main motion has been brought before the assembly through the three steps described above, there are three further basic steps by which the motion is considered in the ordinary and simplest case (unless it adopted by *unanimous consent*, as explained on pp. 54-56). These normal steps are as follows:

- 1) Members *debate* the motion (unless no member claims the floor for that purpose).
- 2) The chair *puts the question* (that is, puts it to a vote).
- 3) The chair *announces the result* of the vote.”

RONR (11th ed.), p. 42, ll. 10-20

15. “Motions that conflict with the...procedural rules prescribed by...local laws, are *out of order*, and if any motion of this kind is adopted, it is null and void.” RONR (11th ed.), p. 42, ll. 10-20

16. The procedural rules prescribed by local laws for the WBoS is the Guide and assures the continued compliance with the Robert's Rules of Order.

17. The Thirty-Seven (37) motions put forth by the WBoS that do not conform with the standards of a motion as set forth in Robert's Rules of Order, are as follows:

<u>Meeting Date:</u>	<u>Minutes Section Letter:</u>	<u>Minutes Item Number:</u>
January 7, 2019	C	2
	F	2
	F	3
January 22, 2019	D	1
	D	7
February 1, 2019	B	1
February 4, 2019	E	1
March 4, 2019	D	3
	D	4
March 18, 2019	D	1
	D	3
April 1, 2019	D	2
	D	3
	D	4
	D	5
April 15, 2019	D	3
	D	4
	D	5
May 6, 2019	D	3
May 20, 2019	D	1
	D	2
	D	3
	D	5
	D	6
June 3, 2019	E	1

	E	3
June 17, 2019	D	1
	D	2
	D	4
	D	6
July 1, 2019	E	3
	E	4
August 12, 2019	D	4
	D	5
August 30, 2019	B (In its Entirety)	n/a
September 9, 2019	E	2
	E	3

18. Here, the motions listed above do not meet the standards of a motion as set forth in Robert's Rules of Order, as required by the Guide, are therefore 'Out of Order,' and consequently 'Null and Void' since the date of each the motion's perceived adoption.

19. The motions listed above do not fall into the exemptions set forth in motions of unanimous consent, which must be either of a routine business or questions of little importance. Even if the motions in questions are asserted by the Defendants to be of unanimous consent, there is a specified process and procedure set forth in Robert's Rules of Order that specify the procedure to accept such motions, which none of the aforementioned motions remotely adhere to.

20. "In cases where there seems to be no opposition in routine business or on questions of little importance, time can often be saved by the procedure of unanimous consent, or as it was formerly also called, general consent." (**emphasis added**) RONR (11th ed.), p. 54, ll. 13-16 As such, this application does not seek to vacate the routine motions and motions of little importance, made by the WBoS, to wit; Motions to Approve Minutes, Motions to Amend Agenda

(For Regular Meetings Only), Motions for Executive Sessions, Motions for Appointments and Motions for Adjournment.

21. No other application for the same order or injunction was filed with this or any other court.

IV. CONCLUSION:

22. Allowing the Defendants to attempt to push through motions that do not adhere to the Robert's Rules of Order, which are by their very existence, Null and Void, and allowing the Defendants to continue to create Null and Void motions, will cause the Plaintiff irreparable harm if allowed to continue.

23. Failure to grant the requested relief will cause irreparable harm to the Plaintiff, for which there is no adequate remedy at law.

24. It is probable that the Plaintiff will prevail upon the merits of his claim that the Defendants have passed through motion which are 'Out of Order' and thereby 'Null and Void' by their very existence.

WHEREFORE, the Plaintiff Claims prays that this Court enter a temporary injunction (1) Vacating all of the Motions put forward by the Board of Selectman during the 2019 calendar year that do not meet the standards of a motion as set forth in Robert's Rules of Order, as required by the Guide, which are therefore 'Out of Order' and consequently 'Null and Void' by their very existence, and, (2) Barring the Defendants from trying to pass any motion during a Board of Selectman meeting where the Robert's Rules of Order are not adhered to in its full compliance..

THE PLAINTIFF



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